

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
 7575 METROPOLITAN DRIVE, SUITE 103
 SAN DIEGO, CA 92108-4421
 (619) 767-2370



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STAFF REPORT: REGULAR CALENDAR

Application No.: 6-18-0201

Applicant: PS2 Pacific, LLC (Steven Goldberg)

Agent: Bart Smith

Location: 2526 & 2530 South Coast Highway 101, Cardiff, Encinitas, San Diego County (APNs 261-162-21 & -23)

Project Description: Remodel of an existing 8,727 sq. ft., 2-story vacant oceanfront restaurant to connect to an existing adjacent 7,143 sq. ft., 2-story restaurant including an approximately 955 sq. ft. addition; merging existing parking and valet programs on the site to provide a total of 185 on-site parking spaces; consolidating thirteen underlying lots into one single lot; new landscaping and hardscape improvements.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The applicant proposes to remodel and expand an existing vacant restaurant, (formerly the Beach House), to connect it to the existing Pacific Coast Grill restaurant located immediately to the north, and then to operate the expanded facility as a single restaurant. Currently an approximately three-foot wide corridor separates the two structures. The expanded restaurant would be a high priority use under the Coastal Act, serving visitors as well as locals within the Cardiff community of the City of Encinitas.

The proposed project is located in an area where coastal hazards exist and can adversely impact the development. A riprap revetment consisting of more than 1,000 tons of rock protects the structures on the site as well as protecting neighboring structures. The revetment supports an eight-foot wide lateral public accessway.

The applicant has submitted a coastal hazards analysis report that ultimately concludes the proposed development will be safe from coastal hazards for at least forty years. The Commission geologist and senior engineer agree that the site will likely be subject to sustained flooding during large storms anticipated in approximately 40 years but that the timing cannot be precisely predicted; additionally, the coastal hazards analysis does not account for other factors that will contribute to the flooding hazard at the site, such as wave run-up. In their review, the Commission geologist and senior engineer determined that the risks of wave run-up under rising sea level conditions will likely occur at the project site well before the site experiences the sustained flooding. Before the restaurant building is at substantial risk of coastal flooding, the seaward lateral public accessway nested on top the revetment will be at risk. The Commission's senior engineer reviewed the applicant's overtopping analysis, prepared as an addendum to the coastal hazards analysis, for the existing riprap/accessway and determined that the overtopping analysis considered only threats to the restaurant building and did not consider the current or future risks to the use of the public access path. The report shows that the existing revetment is already slightly overtopped by waves under current sea level conditions. No changes to the revetment or public access path are currently proposed; however, the path is already subject to wave action and will likely experience increased wave and storm action in the near future as sea level rises.

The redesigned restaurant is a priority visitor use which accommodates public access to the coast in a variety of ways. Given that the structure is non-habitable and continues the historic use of the site, the applicant is being required to accept all risks and acknowledge that the commercial space will be subject to modification, reduced operation and possible abandonment at some point given the inherent flood risk and sea level rise changes. The applicant is acknowledging that the first priority is to maintain the public access corridor on the seaward side of the development and accept that the commercial operations will be modified over time to preserve such public access and respond to hazard conditions. It is only with such acknowledgement and the proposed conditions that the proposed improvements can be supported.

The subject oceanfront site is located west of Highway 101 and encompasses two of three contiguous properties all improved with restaurants (known locally as "Restaurant Row"). Restaurant Row is an extremely popular dining destination among visitors and locals alike; however, parking is very difficult at this location. The proposed project will provide sufficient on-site parking through the combined use of two existing valet programs previously approved by the Commission. The applicant will modify the circulation and vehicular ingress/egress of the valet programs to reflect the two restaurants as a single entity. Valet parking will be provided during the restaurant's hours of operation.

South Coast Highway 101 is designated in the City's certified LCP as a scenic corridor that provides expansive views of the Pacific Ocean and the San Elijo Lagoon. The subject site is also visible from San Elijo Avenue, another LCP-designated view corridor upland of the subject site that provides views of the Pacific Ocean. Many of the buildings along Restaurant Row are restaurants that partially block public views of the ocean. A majority of the proposed additions are to the seaward side of the restaurant and the additions would not significantly block pedestrians' view of the ocean. The proposed second-floor addition to the vacant structure will result in a minor obstruction of the ocean view from inland areas, but the addition is within the existing footprint of the building and the impact is nominal. Additionally, the reuse/expansion of an existing restaurant is consistent with the character of Restaurant Row.

The project will include some hardscape improvements but will not increase the amount of impervious surface on the site; nonetheless, runoff from the parking lots can be a major contributor of non-point source pollution in stormwater which ultimately is discharged into coastal waters.

Because the project site is located in a hazardous area already protected by existing armoring, **Special Condition #6** requires the applicant to acknowledge the hazards present onsite, assume the risk of such hazards, and waive the right to construct further shoreline armoring for the development authorized through this permit. To ensure the proposed new development minimizes risks to life and property when coastal hazards threaten the safety of the site, **Special Condition #6** also requires the applicant in the future to remove or relocate development authorized by this CDP to accommodate the inland migration of the eight-foot wide public accessway and public accessway signage. Other circumstances such as loss of access to the site via South Coast Highway 101, encroachments into public trust lands, and a government agency order condemning the property due to hazards will also require future removal, modification or relocation of the development.

Special Condition #5 requires the applicant to submit monitoring reports for both the revetment and eight-foot wide public accessway by May 1 of every year for the life of the project. The monitoring reports will serve as another way to inform the Commission if the public accessway is vulnerable to the conditions that may require removal of development according to Special Condition 6(e).

To ensure that future property owners are properly informed regarding the terms and conditions of this approval, **Special Condition #7** requires a deed restriction to be recorded against the properties affected by the development.

The expansion of the Pacific Coast Grill will likely result in an increase in restaurant staff. To ensure worker parking demand does not result in adverse impacts on public access, **Special Condition #4** requires that the applicant submit and implement a Transportation/Parking Demand Management Program to promote the use of transit, minimize parking demand, and prevent restaurant workers from using public parking spaces.

6-18-0201 (**PS2 Pacific, LLC**)

To ensure the proposed development that is adjacent to Cardiff Beach does not adversely impact water quality, **Special Condition #2** requires the applicant to submit a Construction Pollution Prevention Plan, prepared by a licensed engineer, that incorporates BMPs designed to address contaminants associated with construction activity. Additionally, to ensure that BMPs for the parking lot are in place upon completion of the project, **Special Condition #3** requires the applicant to submit a Post-Development Runoff Plan implementing BMPs to reduce runoff from the various impervious surfaces.

Commission staff recommends **approval** of coastal development permit application 6-18-0201 as conditioned.

TABLE OF CONTENTS

| | |
|---|-----------|
| I. MOTION AND RESOLUTION..... | 6 |
| II. STANDARD CONDITIONS | 6 |
| III. SPECIAL CONDITIONS | 7 |
| IV. FINDINGS AND DECLARATIONS..... | 14 |
| A. PROJECT DESCRIPTION | 14 |
| B. GEOLOGIC HAZARDS/FLOODING & INUNDATION | 18 |
| C. PUBLIC ACCESS & RECREATION/PARKING | 25 |
| D. COMMUNITY CHARACTER/VISUAL QUALITY | 33 |
| E. BIOLOGICAL RESOURCES | 35 |
| F. LOCAL COASTAL PLANNING..... | 36 |
| G. CALIFORNIA ENVIRONMENTAL QUALITY ACT | 36 |

APPENDICES

[Appendix A – Substantive File Documents](#)

EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Project Location](#)

[Exhibit 3 – 75 cm SLR+100-yr Wave](#)

[Exhibit 4 – 100 cm SLR+100-yr Wave](#)

[Exhibit 5 – Valet Parking Circulation](#)

[Exhibit 6 – Valet Parking Plan](#)

[Exhibit 7 – Potential Flooding Index](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-18-0201 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves coastal development permit 6-18-0201 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Revised Final Plans.**
 - (a) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, revised final plans that are in substantial conformance with the plans prepared by DZN Partners dated 07/23/18 and 02/16/18, except that they shall comply with the following:
 - i. The free valet parking or reserved car pool spaces for carpools of three or more workers must be identified on the valet parking plan.
 - ii. References to a “second-floor outdoor deck addition” shall be corrected to read as “second-floor addition.”
 - (b) The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
2. **Construction Pollution Prevention Plan (CPPP).**
 - (a) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) sets of a CPPP prepared and signed by a licensed engineer that, at a minimum, includes the following:
 - (b) Best Management Practices (BMP’s) designed to prevent spillage and runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMP’s shall be maintained in a functional condition throughout the duration of the project. Such measures shall include:

- i. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;
- ii. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;
- iii. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters or storm drains;
- iv. Erosion control/sedimentation BMP's shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- v. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- vi. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- vii. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a Coastal Development Permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- viii. All construction materials stockpiled on site shall be covered and enclosed on all sides to ensure that the materials are not discharged to a storm drain inlet or receiving waters;
- ix. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. If thinners, petroleum products or solvents must be used on site, they shall be properly recycled or disposed after use and not be discharged into storm drains, sewers, receiving waters or onto the unpaved ground.
- x. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- xi. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle

maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The designated area shall be equipped with spill control materials and located to minimize the risk of spills reaching receiving waters, storm drains, sewers or unpaved ground;

- xii. BMP's and Good Housekeeping Practices (GHP's) designed to prevent spillage and runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
 - xiii. All BMP's shall be maintained in a functional condition throughout the duration of construction activity.
- (c) The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Post Development Runoff Plan (PDRP).**

- (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit for the review and written approval of the Executive Directors a Post Development Runoff Plan (PDRP) that includes a map, drawn to scale, showing the property boundaries, building, footprint, runoff flow directions, relevant drainage and water quality features, impervious surfaces, permeable pavements, and landscaped areas. The PDRP shall demonstrate that the project:
- i. Minimizes disturbance of coastal waters and natural drainage features; minimizes removal of native vegetation; and avoids, to the extent feasible, covering or compaction of highly permeable soils.
 - ii. Preferentially uses Low Impact Development (LID) techniques to retain and disperse runoff on site.
 - iii. Uses infiltration to the greatest extent feasible to retain runoff; minimize the addition of impervious surfaces; disconnect impervious surfaces from the storm drain system by interposing strategically-located pervious areas. Where infiltration is not appropriate or feasible, uses alternative BMPs to minimize changes in the runoff flow regime (e.g., direct roof runoff into rain barrels or cisterns for later use, evaporate roof runoff, employ a green roof, construct a rain garden, and/or plant trees).

- iv. Unless specifically prohibited by conditions as documented in a detailed site analysis certified by a licensed engineer, runoff from the development, up to and including the 85th percentile, 24-hour runoff event, shall be infiltrated on-site.
 - v. Minimizes pollutants associated with landscaping and building materials.
 - vi. Directs drainage from all parking areas and driveways, roofs, walkways, patios, and other impervious surfaces to, in order of priority, a) landscaped areas or open spaces capable of infiltration, b) earthen-based infiltration BMPs, c) flow-through bio-filtration BMPs designed to treat, at a minimum, twice the 85th percentile one-hour storm event volume, accompanied by supporting calculations, d) proprietary filtration systems designed to treat, at a minimum, twice the 85th percentile one-hour storm event volume, accompanied by supporting calculations and product documentation.
 - vii. Conveys excess runoff off-site in a non-erosive manner.
 - viii. Where flow-through BMPs are used, includes supporting calculations and product documentation.
 - ix. Includes all maintenance and operating procedures that will be conducted to keep the water quality provisions effective for the life of the development.
- (b) The permittee shall undertake development in conformance with the approved PDRP. No changes to the plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. **Transportation/Parking Demand Management Program.**

- (a) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director, for review and written approval, a Transportation/Parking Demand Management Program that includes, at a minimum, the following provisions:
- i. Free valet parking or reserved car pool spaces shall be provided for carpools of three or more workers.
 - ii. The permittee shall provide incentives for workers to use public transportation; including the provision of subsidized public transit passes or reimbursements.
 - iii. The permittee shall encourage worker participation in a carpool plan and support the use of carpools, reasonable coordination of work schedules,

the announcement of the availability of carpools with periodic reminders, and other incentives that are feasible for the permittee to offer.

- iv. The permittee shall assist in arranging transportation during inclement weather for workers who use alternative modes of transportation.
 - v. The program shall be included in documents made available to all new hires.
 - vi. The permittee shall undertake annual surveys of workers to document the frequency with which they are using alternative transportation to get to work and the success of the Transportation/Parking Management Program. Surveys shall be submitted annually to the Executive Director for as long as this permit is in effect.
- (b) Special Condition #15 of CDP #6-02-008-A1 [Transportation/Parking Demand Management Program] may be satisfied through compliance of this condition.
- (c) The Transportation/Parking Demand Management Program shall be implemented at all times consistent with the terms of this condition. No changes to the program shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. **Shoreline Protection/Access Path Monitoring Plan.**

- (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a Shoreline Protection and Access Path Monitoring Plan, prepared by a licensed geologist or civil or geotechnical engineer for the review and written approval of the Executive Director. The plan shall be sufficient to assess the performance of the existing revetment and shall include at a minimum:
- i. A detailed description of the approved shoreline protection device.
 - ii. A discussion of the goals and objectives of the plan, which shall include maintenance of the revetment and access path constructed on top of it to assure it functions as originally designed.
 - iii. Provisions for inspection of the condition of the shoreline protection device and public access path constructed on top of it by a licensed geologist, or civil or geotechnical engineer, including the scope and frequency of such inspections.
 - iv. Provisions for submittal to the Executive Director by May 1 of every year for the life of the structure of a monitoring report that has been prepared

by a licensed geologist, or civil or geotechnical engineer. Each monitoring report shall contain the following:

- (1) An evaluation of the condition and performance of the approved shoreline protection device and access path constructed on top if it, including an assessment of whether any weathering or damage has occurred that could adversely impact future performance of the device and if the access path maintains its required 8 ft. width, a level surface, and generally dry conditions so as to facilitate public access,
- (2) All measurements taken in conformance with the approved monitoring plan,
- (3) A description of any migration or movement of rock that has occurred on the site, and
- (4) An agreement that the permittee shall apply for a coastal development permit within 90 days of submission of the report required above for any necessary maintenance, repair, changes or modifications to the either the revetment or the public accessway recommended by the report that require a coastal development permit as determined by the Executive Director.

v. Special Condition #8 of CDP #6-02-008 [Shoreline Protection Monitoring Plan] and Special Condition #2 of CDP #6-02-119 [Shoreline Protection/Access Path Monitoring Plan] may be satisfied through compliance of this condition.

(b) The permittee shall undertake development in accordance with the approved final plans. No changes to the plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. **Coastal Hazards Response.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of themselves and all successors and assigns, that:

- (a) **Coastal Hazards.** The site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, and their interaction and with respect to sea level rise.
- (b) **Permit Intent.** The intent of this CDP is to allow for the approved project to be constructed and used consistently with the terms and conditions of this CDP for only as long as the development remains safe for occupancy and use, without additional substantive measures beyond ordinary repair or

maintenance to protect the development from coastal hazards, and only as long as lateral public access seaward of the development can be provided.

- (c) **No Future Shoreline Protective Device.** No additional protective structures, including but not limited to additional riprap revetment or retaining walls, shall be constructed to protect the development approved pursuant to CDP #6-18-0201, in the event that the approved development is threatened with damage or destruction from waves, erosion, storm conditions, shoreline retreat, or other natural hazards in the future. By acceptance of this CDP, the Permittees hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235, and agree that no portion of the approved development may be considered an “existing” structure for purposes of Section 30235, and that new development shall in no way require the construction of protective devices.
- (d) **Obligation to Provide Lateral Public Access.** Temporary elimination of safe lateral public access along the revetment due to coastal hazards, including but not limited to extreme tide conditions, storms, wave run-up, and/or rising sea levels, that occurs at least once per day over three consecutive days and three times or more during any rolling 12-month period shall trigger a review to determine if there continues to be adequate lateral public access. Safe lateral public access along the revetment may be considered temporarily eliminated when the maximum water elevation of the tide, plus wave effects, exceeds the empirical mild flood threshold on the Coastal Data Information Program/Scripps Institution of Oceanography (CDIP/SIO) Potential Flooding Index for Cardiff, or a comparable flood threshold that is developed by the applicant and submitted to the Executive Director for review and approval. If the Executive Director determines that safe lateral public access cannot be provided seaward of the development authorized by this CDP, the permittee agrees to remove, in part or in whole, such development. The Permittees shall apply for an amendment to this CDP in order to conduct removal activities, unless the Executive Director determines that an amendment is not legally required. Alternative options may be considered provided that such options ensure continued lateral public access seaward of the development. Any inland migration of the public access path shall occur separate from the riprap revetment.
- (e) **Future Removal of Development.** The Permittees shall remove or relocate, in part or in whole, the development authorized by this CDP, including, but not limited to the first-floor patio of the vacant restaurant, known previously as Beach House, when: (1) any government agency with relevant authority and jurisdiction has ordered that the structures area not to be occupied due to hazards; (2) essential services to the site can no longer be maintained (e.g., roadways, utilities); (3) development is impermissibly encroaching on public trust lands; or (4) safe lateral public access cannot be provided, as determined pursuant to Special Condition #6(d). Removal or relocation of the approved

structure or other development authorized by this CDP shall require an amendment to this CDP. In the event that portions of the development fall to the water or ground before they are removed, the Permittee shall remove all recoverable debris associated with the development from the ocean, intertidal areas, and beach, and lawfully dispose of the material in an approved disposal site. Such removal activities shall require an amendment to this CDP.

7. **Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property subject to the terms and conditions that restrict the use and enjoyment of that property, and (2) imposing the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project involves a remodel to an existing 8,727 square foot, two-story vacant oceanfront restaurant with 2,409 square feet of attached outdoor deck/patio space, previously the Beach House, to connect it to the existing Pacific Coast Grill restaurant located approximately three feet to the north. The Pacific Coast Grill is a 7,143 square foot, two-story oceanfront restaurant with 1,345 square feet of attached outdoor deck/patio space. The project would result in one 16,511 square foot oceanfront restaurant with 2,272 square feet of attached deck/patio space, netting a 641 square foot total increase of internal floor area and a 1,482 square foot total decrease in outdoor deck/patio space. The project will enable the applicant to operate both restaurants as one single entity.

The two restaurants will be combined by adding hallways across the three foot span on the first and second floors. An approximately 221 square foot addition will be sited along the seaward wall of the first and second floors of the vacant restaurant. Another approximately 543 square foot addition will be sited within the existing building footprint on the seaward side of the second floor. The applicant refers to the 543 square foot

addition as an outdoor deck; however, it is enclosed on all sides and covered by a roof. The patio located on the seaward side of the vacant restaurant will be expanded by six square feet. Approximately, 1,020 square feet of the existing restaurant and patio/decks will be demolished. The vacant restaurant's façade will be revised and updated to match the Pacific Coast Grill existing façade.

The proposed project also includes a proposal to merge the existing valet parking programs of the Beach House and Pacific Coast Grill, both approved by the Commission in prior permits. Currently, the existing Pacific Coast Grill provides 75 valet parking spaces through its valet parking service on the parking lot on the inland site of the site and a lease with one off-site lot. The vacant Beach House lot provides 121 valet parking spaces. As proposed, a total of 185 on-site valet parking spaces would be provided for the newly expanded Pacific Coast Grill restaurant. The thirteen lots underlying both restaurants are proposed to be consolidated into one 60,775 square foot lot under this permit. The applicant submitted a prepared tentative parcel map waiver as part of the CDP application submittal that is awaiting recordation upon the approval of this permit.

Lastly, the applicant proposes to install new drought-tolerant landscaping consistent with the Commission-approved landscaping at the Pacific Coast Grill, and construct several hardscape improvements including a trash enclosure wall composed of an eight-foot high, stone veneer wall covered with a wooden trellis; a three-foot high, stone veneer wall abutting the seaward side of the first-floor patio; new concrete driveway aprons for the egress from the vacant restaurant's parking lot adjacent to South Coast Highway 101, and a concrete walkway in front of the vacant restaurant.

There are three contiguous oceanfront restaurants, including the project site, located west of South Coast Highway 101 along the "Restaurant Row": Pacific Coast Grill, the vacant Beach House, and Chart House. A 145-foot long, 10- to 50-foot wide revetment fronts the seaward side of all three restaurants. The Commission, through past permit actions, required public access easements that run on the existing revetment on all three sites. The easements were intended to facilitate the construction of public access paths that would allow for continuous dry land lateral access during periods of high tides or storms. The pathways provide lateral access between the North Cardiff State Beach parking lot and the portion of Cardiff Beach south of Chart House.

In approving the approximately 1,000 tons of rip-rap that currently exist seaward of the restaurant and a previous restaurant expansion (CDP #6-83-165/Saxten), the Commission required the section of the public access path seaward of the Pacific Coast Grill to be secured by an irrevocable offer to dedicate. Although the lateral access dedication was recorded in 1983, the applicant did not complete the required access improvements at that time. The public access path seaward of the Pacific Coast Grill was not constructed until after the Commission's action on CDP #6-02-008. The section of the public access path seaward of the vacant restaurant was required in the Commission's action on CDP #6-02-119. All sections of the pathway are required to be permeable so as to permit runoff to filter through the path. No changes to the public access path or revetment are proposed.

The section of South Coast Highway 101 adjacent to the project site traverses across the mouth and seaward side of San Elijo Lagoon and contains a series of restaurants on both the seaward and landward sides of the highway. The North Cardiff State Beach parking lot that provides dedicated State Beach parking is located on the adjacent north side of the subject site. The entire site and adjacent segment of Highway 101 are located within the Flood Plain Overlay Zone district as identified in the certified LCP.

The proposed development is located within the City of Encinitas which has a certified LCP; however, the subject site is located within the Commission's area of original jurisdiction and as such, the standard of review is the Chapter 3 policies of the Coastal Act, with the City's LCP used as guidance.

Site History/Past Permits

Both properties at 2526 (Pacific Coast Grill) & 2530 (Beach House) South Coast Highway 101 have been the subject of a number of CDP applications in the past:

- In 1974, the Commission approved the construction of a wooden windscreen enclosure with a canvas roof around an approximately 800 square foot outdoor dining deck attached to the southwest corner of a one-story restaurant named Hydra at 2526 South Coast Highway 101 (F1183/Wood). An existing pre-coastal structure located in the northern part of the site with a patio and six-foot high fence on its south side was not included in the project scope. There was an existing revetment constructed prior to passage of the Coastal Act located on the seaward side of the site.
- In October 1976, the Commission approved a permit for removal of an existing 1,050 square foot wood-frame structure, construction of the 6,000 square foot, two-story Triton Restaurant (later renamed Beach House), provision of 58 parking spaces, installation of a monument sign and the reconstruction of an existing riprap revetment at 2530 South Coast Highway 101 (CDP #F2857). Conditions of approval on that permit required the recordation of an eight-foot wide public access easement running parallel to the riprap between the riprap and the restaurant. In April 1977, the Commission approved CDP #F5483 for changes to the roof and architectural design of the restaurant.
- In 1983, the Commission approved the demolition of an existing 1,450 square foot, pre-coastal structure, construction of a 1,820 square foot second-story addition to the existing restaurant, and enlargement of the twelve space parking lot to a lot containing twenty-one spaces at 2526 South Coast Highway 101 (CDP #6-83-165/Saxten). In addition, the Commission also granted after-the-fact approval for the import of approximately 1,000 tons of rip-rap (approximately 150 rocks) that were placed on the pre-coastal revetment located on the seaward side of the restaurant during the winter of 1982-83 following a series of high tides and storms which damaged the restaurant. Lateral access across seaward side of the site was required to be secured by an irrevocable offer to dedicate. Although the

lateral access dedication was recorded, the applicant did not complete the required access improvements.

- An application was submitted in August 1984, proposing the construction of a fifty square foot storage building as an addition to the existing restaurant at 2530 South Coast Highway 101 (CDP #6-84-437). The items required to complete the file were never received; thus, the application was never filed or processed.
- In November 1997, the Commission issued an emergency permit authorizing the addition of twenty four- to five-ton stones to the existing revetment and restacking dislodged rock from the existing revetment fronting 2530 South Coast Highway 101 (CDP #6-97-144-G). A total of only forty tons of new stone was actually placed on the revetment. In June 1998, the applicant submitted a follow-up permit to the emergency permit (CDP #6-97-144); however, the permit was withdrawn on March 5, 1999, prior to Commission action.
- In 2002, the Commission approved the construction of a public access path, previous required but not completed pursuant to CDP #6-83-165/Saxten, between the restaurant/outdoor patio at 2526 South Coast Highway 101 and the rock revetment, repairs to the revetment and storm-damaged parking lot, a roof over the enclosed area of the outdoor patio, an outdoor dining area and the placement of approximately forty-five tons of additional rip-rap (CDP # 6-02-008). The path was to be formalized through the removal of existing riprap, placement of filter fabric, and the installation of eight inches of gravel along with a surface treatment such that the path would remain permeable to allow filtering of runoff. The staff report for this permit erroneously states that the Commission approved, in part, the partial demolition of the existing restaurant in its action on CDP# 6-83-165/Saxten. The demolition approved by the Commission's action on CDP# 6-83-165/Saxten was for a separate 1,450 square foot building located in the northern portion of the site. The separate building was used for office and storage space for the restaurant. The office and storage space was relocated to a 1,820 square foot second-floor addition to the existing restaurant which is now the Pacific Coast Grill that was authorized in the same action. A small part of the first-floor roof was removed to make way for a staircase to connect the first-floor and the newly constructed second-floor, but the restaurant was not demolished in this action or any subsequent permit action for this site.
- In January 2004, the Commission approved revised findings in support of the Commission's action on Oct 7, 2003, for CDP No. 6-02-119 which served as a follow-up permit to the 1997 emergency permit for work at 2530 South Coast Highway 101 (6-97-114-G). The portion of the eight-foot wide public accessway in front of the Beach House was also realigned to be located further inland consistent with the intent of the Commission's original approval of the path to provide dry land access parallel to the beach during periods of high tide or storm conditions (see CDP #F2857). The applicant was also required to increase the

height of the path to at least the same elevation of the neighboring patio at the Pacific Coast Grill (~11.5 above MSL).

- In October 2011, the Commission approved an amendment to the 2002 permit for the Pacific Coast Grill to add a 620 square foot outdoor deck for dining on top of the existing first floor dining area, a nine-foot high wood trellis over the existing outdoor patio, a 36-inch high wall separating the outdoor dining area from the public access easement, after-the-fact approval of a 341 square foot second floor addition within the existing building footprint, and new exterior windows to replace existing exterior windows at 2526 South Coast Highway 101(CDP # 6-02-008-A1). Ten off-site valet parking spaces were also provided to accommodate the additional floor area.

B. GEOLOGIC HAZARDS/FLOODING & INUNDATION

Section 30235 of the Coastal Act states, in part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline process shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 30253 of the Coastal Act states, in part:

New development shall . . . [m]inimize risks to life and property in areas of high geologic, flood, and fire hazard . . . [and] where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Land Use Policy 8.2 of the Encinitas certified Land Use Plan states, in part:

Development within coastal and flood plain areas . . . must be limited, designed to minimize hazards associated with development in these areas, and preserve area resources. . . . No development shall occur in the 100-year Floodplain that is not consistent and compatible with the associated flood hazard.

Section 30.34.040 of the Encinitas certified Implementation Plan:

Floodplain. Within the 100-year floodplain, permanent structures, roads and other public improvement consistent with the Land Use Element will only be allowed if the applicant can demonstrate the following:

- a. The development is capable of withstanding periodic flooding, and does not require the construction of flood protective works, including but not limited to, artificial flood channels, revetments, and levees. . . .*

Developments located at the shoreline are directly subject to the risks associated with shoreline erosion, storms, large waves, flooding, earthquakes/tsunamis, and other geologic and coastal hazards. Low-lying coastal areas may experience more frequent flooding (temporary wetting) or inundation (permanent wetting), and the inland extents of 100-year floods may increase. These risks can be exacerbated by rising sea level.

Both restaurants and the adjacent segment of South Coast Highway 101 are located in the Flood Plain Overlay Zone district as identified in the certified LCP. South Coast Highway 101 provides the only vehicular access to the project site, but the highway and other surrounding low-lying public infrastructure are currently at risk from storms and wave impacts and will likely be inundated in the near future due to sea level rise. The topography of the project site and the surrounding area is relatively flat and is already subject to wave and storm action. As a result, riprap revetments armor the seaward side of most establishments along this stretch of shoreline, including Highway 101 and the project site, which is protected by an existing 145-foot long, 10- to 50-foot wide riprap revetment.

In past Commission actions, an eight-foot wide lateral public access path was required to be placed on top of the revetment to provide dry access along this section of the beach during periods of high tides. Special Condition #8 of CDP #6-02-008 and Special Condition #2 of CDP #6-02-119 require the annual submittal of monitoring reports to assess the condition of the section of revetment and public access path fronting Pacific Coast Grill and the vacant restaurant, respectively. Both reports state the revetment and access path are in good condition and that no maintenance or repair is needed at this time. No work is proposed to the revetment or public access path through this permit, but the existing first-floor patio will be extended seaward by six feet; a three-foot high, stone veneer wall will be constructed seaward of the renovated first-floor patio; and a 221 square foot addition will be added to the seaward side of the vacant restaurant.

Section 30235 of the Coastal Act requires that shoreline devices only be permitted if they are required to protect existing development and are designed to eliminate or mitigate adverse effects to sand supply. According to the applicant, some form of the Pacific Coast Grill restaurant has existed since the 1950s. The former Beach House restaurant was constructed in 1976 (CDP #F2857). The LCP containing these setback requirements was not certified until 1995. Both sites have been the subject of various permits over the years for modifications to the restaurants; however, cumulatively these projects have not resulted in the replacement of fifty percent or more of either of the existing restaurants. Thus, the structures are considered existing structures.

In approving the addition of approximately 1,000 tons of rock to the pre-existing revetment in 1983 (CDP 6-83-165/Saxten), the Commission determined that the revetment was necessary to protect the existing restaurant and that no other feasible alternative was available to provide that protection. The Commission also determined that the revetment predated the Coastal Act and, as such, did not require mitigation for impacts on sand supply. In addition, the Commission determined that a rip-rap revetment was the historical type of shoreline protection used along this approximately one mile

long stretch of beach. CDP #6-02-008 included the addition of 45 tons of rock to the existing revetment. The Commission determined this addition of rock to be part of the revetment's ongoing maintenance, as the revetment is founded entirely on sand and subject to extreme oceanographic conditions.

The proposed additions to the vacant restaurant are not considered existing, even though portions of the additions are connected to existing structures. The new additions will benefit from the existing riprap revetment protection; however, if these additions require new shoreline protection device now or at some point in the future, the Commission would not likely approve the project. The restaurant is located in a hazardous area subject to coastal hazards such as wave run-up, flooding, and inundation. As sea level rise exacerbates these hazards, the functioning restaurant and proposed additions will be subjected to increased risks, at which point the applicant may seek to approval of new shoreline protection to protect the restaurant and proposed additions. The applicant must acknowledge that the newly proposed additions are not existing structures, and waive any right to construct a shoreline protective device for the additions in the future since they are not entitled to shoreline protection.

Section 30253 of the Coastal Act also requires that new development minimize risk to life and property, not lead to erosion or instability to surrounding sites or require the construction of shoreline protective devices. While the revetment provides substantial protection for the restaurant, even with a properly designed and maintained rock revetment, overtopping of the revetment occurs during periods of storm waves, such as those that occur during an El Niño winter, increasing the threat to existing and new development. Currently at high tides, there is no dry sand (i.e., usable beach) seaward of the restaurant. In addition, because the revetment lies entirely on sand, the rock is subject to settling or sinking and needs to be maintained on a regular basis.

The applicant is requesting approval for substantial renovations to create a single, upgraded facility located in a hazardous area. In addition, the proposed improvements involve a minor expansion to the seaward side of the existing structure. As a result, the Commission must evaluate both the risk to the remodeled structure, and the potential that the structure will result in the need for additional shoreline protection. There are a number of adverse impacts to public resources are associated with the construction of shoreline structures. These include loss to the public of the sandy beach area that is displaced by the structure, "permanently" fixing the back of the beach, which leads to the narrowing and eventual disappearance of the beach in front of the structure, sand loss from the beach due to wave reflection and scour, accelerated erosion on adjacent unprotected properties and the adverse visual impacts associated with construction of a shoreline protective device on the natural shoreline. As such, the construction of shoreline development can raise consistency concerns with a number of Coastal Act policies, including Sections 30210, 30211, 30212, [public access] and 30251 [visual resources] as well as 30235 and 30253. In addition, on this particular site, the placement of additional rock could specifically impact the public accessway located seaward of the site.

In order to evaluate the risk to the structure, the applicant submitted a coastal hazards analysis report. Using a combination of the CoSMoS “Our Coast Our Future” (OCOF) online tools and the 2017 OPC sea level rise projections, this report concludes that the project site would be significantly flooded with between 75 and 100 centimeters of sea level rise, during a 100-yr storm, which could occur between the years 2060 to 2100. The applicant also submitted a comment letter from a contractor who previously worked on repairs to the vacant restaurant. The contractor concluded that with the currently proposed repairs and remodeling, and proper maintenance of the facility, the remaining economic life of the restaurant is expected to be between thirty and forty more years. At the thirty to forty year mark, the structure and foundation is expected to require major modifications to both elements to assure the building’s structural stability. Thus, the report concludes that the remaining economic life generally coincides with the timeframe during which the project site is expected to be safe from excessive flooding or other risks related to rising sea level. Based on this information, the applicant concluded that the existing restaurants and new additions would be safe from hazards for the remaining economic life of the vacant restaurant. However, the contractor also stated in his letter that in 2014 most of the vacant building showed water damage to the exterior and interior framing at the lower portion of the wall, confirming that the restaurant is already experiencing occasional flooding under current sea level conditions.

The Commission’s geologist and senior engineer agree with the report’s conclusion that the project site will be flooded when sea level rises between 75 and 100 centimeters, during a 100-year storm, which could occur between the years 2060 to 2100. The applicant’s analysis describes the flooding output from the CoSMoS model as “significant flooding”; however, this characterization does not fully capture the potential timing and magnitude of the flooding under these modeled scenarios, and does not include the effects of wave run-up, and may thus underestimate the flooding hazard at the site.

The Commission’s geologist ran the CoSMoS model under the same parameters used by the applicant (i.e., 75 cm and 100 cm of sea level rise, 100-yr storm conditions) and was able to confirm the basic conclusion of the applicant’s analysis. However, using other functions of the CoSMoS webtool, the Commission’s geologist also noted the following: (a) With 100 cm of sea level rise, during the 100-year storm, the entire restaurant parcel is projected to be flooded to depths of one to two meters, for as long as six to 18 hours; (b) with 75-cm of sea level rise plus the 100-yr storm, projected flooding approaches the top of the existing revetment, but complete flooding of the site is within the model’s range of uncertainty ([see Exhibits #3 and #4](#)). These projections suggest that flooding at the project site with one meter of sea level rise is not just significant, but potentially catastrophic, and that such flooding could occur sooner, with less sea level rise, than is indicated in the applicant’s analysis.

Moreover, neither of these modeled scenarios fully accounts for the large waves that would accompany a 100-year storm event. If wave run-up is included in the analysis, the flood hazard at the site is magnified. As evidenced by the damage that has occurred at the restaurant site during past large storm events, the project site is currently subject to wave run-up, without factoring in sea level rise. Consistent with historical observations,

the CoSMoS maximum wave run-up tool shows that some overtopping of the revetment can occur under current sea level conditions. At current sea level conditions with a 100-year storm, the modeled maximum wave run-up reaches San Elijo Lagoon, completely overtopping the project site and Highway 101. As described above, the Commission has approved past requests from the owners of the project site for riprap placement during the 1982-83 and 1997-98 El Niños, both of which exceeded the 100-year storm, that caused wave damage to restaurants in this area (see CDPs #6-83-165/Saxten; #6-97-144-G). The site is already subject to flooding from wave run-up during large storms, and the restaurants are dependent on the existing revetment for protection from high wave events. As sea level rises, wave run-up reaching the restaurant will be more frequent and overtopping will be of greater depth and velocity, which will cause more damage to the restaurants. In summary, the Commission geologist and senior engineer conclude that wave run-up under rising sea level will likely threaten the project site well before the sustained flooding conditions anticipated to affect the site; and, thus, the restaurant and new additions may not be safe for the remaining economic life of the project.

Furthermore, the eight-foot wide public access path that is seaward of the restaurant will be threatened under lesser wave or sea level rise conditions than will put the restaurant at risk. The public access path, required by the Commission through several past actions, extends along the riprap revetment seaward of all three restaurants ([see Exhibit #1](#)) located on the west side of South Coast Highway 101(see Section. C Public Access & Recreation/Parking below for a more detailed description). The applicant prepared an overtopping analysis as an addendum to the coastal hazards analysis report to examine risks to both the public access path and the restaurant. The addendum for the overtopping analysis states that the revetment/pathway should be reasonably safe from wave run-up damage until sea level reaches the 75 centimeters of sea level rise scenario; however, the analysis shows that under current sea level conditions, the revetment is already overtopped by 0.7 foot with a velocity of about 3.7 feet/second during a 100-year storm. While this amount of overtopping is relatively minor and not likely to deter access, future overtopping events will increase in frequency and velocity as sea level rises and make use of the access path more risky during times of wave overtopping.

Overtopping events could pose a risk to people using the public accessway that is on top of the revetment. Overtopping events will also pose a risk to diners, especially those seated on the first-floor patio of the vacant restaurant. The previous owner of the now-vacant restaurant used temporary means (e.g. pieces of plywood) to protect the restaurant from small pieces of beach rock. As overtopping events get worse, the new owner might have to utilize similar temporary methods more often and eventually seek to install more permanent flood protective works to protect the patio and other seaward portions of the combined restaurants, which is prohibited by Section 30.34.040 of the Encinitas certified LCP, which bars the use of flood protection works for structures in a 100-year floodplain. Thus, in order to ensure that the restaurant is not subject to significant hazards risk in the future, and that additional shoreline protection is not required, and to preserve the integrity and availability of the public accessway, alternative, proactive sea level rise adaptation strategies must be utilized to address the risks identified above.

The Commission draws a distinction between the requirements for new development and improvements to existing non-conforming structures, including structures that are located in areas that are no longer considered safe from hazard (e.g., CDP #s 6-18-0182/Harris; 6-17-0239/Mansukhani; 6-14-0679/WJK Trust; and A-6-LJS-14-0063/City of San Diego). New structures are typically required to meet all current setback and other standards, while improvements to existing structures that do not increase the degree of non-conformity may be permitted without bringing the entire structure into compliance.

Currently, both restaurants have non-conforming front-yard and interior side yard setbacks which are approximately sixteen feet and zero feet, respectively. Both are less than the minimum front yard and interior side yard setbacks required under the Encinitas certified LCP which are twenty feet and ten feet, respectively. Under the current LCP standards, no rear yard setback is required for buildings located in commercial zones; and, the oceanfront setting here would dictate any required setbacks or siting criteria.

As proposed, approximately forty-eight percent of the vacant restaurant's seaward exterior wall would be demolished and rebuilt, counting both the first and second floor alterations. Thus, the project is very close to the redevelopment threshold which states that replacement of fifty percent or more of any structure constitutes a replacement structure (see 14 CCR § 13252(b)). However, although the proposed demolition for the remodel is extensive, it does not involve the replacement of fifty percent or more of the vacant restaurant. Thus, the non-conforming setbacks are not required to be brought up to current standards.

The subject site is large, and there is more than adequate room to relocate a restaurant further inland on the site ([see Exhibit #2](#)). However, because of the relatively flat topography of the site, moving the structure inland would not significantly alleviate flooding risk. Also, accommodating for the risk in place is not a likely option since this option would likely require raising the elevation of the building such that it is safe from flooding hazards. Doing so would require the applicant to retrofit portions of the building that are outside of the scope of the current proposal and would very likely tip the current proposal in the redevelopment category, eliminating any entitlements to pre-existing, non-conforming setbacks. Hard protection has already been implemented on the project site in the form of the riprap revetment, and adding new rock would take away existing beach area or encroach into the public accessway.

The only long-term strategies to avoid hazard risk on this site are to move the development completely away from the hazards, move the hazards away from the development, or just avoid sitting any development in this area. Although the project site is subject to periodic damage associated with certain storm events (e.g. El Niño winters), the damage has not exceeded the threshold where the restaurant can no longer function as a visitor-serving high priority use. However, there is clear evidence that the project site will be at risk before the sustained flooding conditions anticipated to affect the site. Sand nourishment projects approved by the Commission, such as the City of Encinitas Opportunistic Beach Fill Program (CDP #6-08-110-A2) and the San Elijo Lagoon Conservancy Annual Inlet Dredging Program (CDP #6-16-0248-A1), will help to move the hazardous condition away from the development; however, there are concerns with

giving too much credence to local sand nourishment projects as a means to protect this development. Without an extension, CDP #6-08-110-A2 will expire next year (2019) and the Commission is not aware of sand projects that have been deposited on Cardiff Beach yet through that permit. CDP #6-16-0248-A1 will allow sand and cobble from the San Elijo Lagoon inlet to be placed directly seaward of the project site. The underlying permit allowed most of the sand to be placed at the Cardiff Beach receiver site, but in February of this year, the underlying permit was amended to add a fourth receiver site, the Cardiff State Beach Living Shoreline Project, to which most of the dredged sand will be allocated going forward. In short, to rely solely on sand nourishment projects is not sufficiently precautionary when the risks associated with coastal hazards are exacerbated by sea level rise and can threaten the safety of life and property.

Thus, moving the development away from the hazards through a form of managed retreat is necessary to mitigate for these risks. Furthermore, the retreat of the development will facilitate the inland migration of the public accessway, which will be at risk from coastal flooding long before the restaurant is at risk. To protect the public access path, the applicant is required to obtain a CDP to remove or relocate any development authorized by this permit when safe lateral public access along the revetment is temporarily eliminated by coastal hazards at least one time per a day over three consecutive days three or more during any rolling 12-month period. Elimination of safe lateral access may be determined using the Coastal Data Information Program/Scripps Institution of Oceanography (CDIP/SIO) Potential Flooding Index for Cardiff (see Section. C below), or a comparable flood threshold that is developed by the applicant and submitted to the Executive Director for review and approval. An annual monitoring report will serve as another way to inform the Commission if the public accessway is vulnerable to the conditions that may require removal of development according to Special Condition 6(e).

Once the restaurant itself is at risk, the applicant will be required to remove or relocate the development authorized by this permit when one of four conditions are met: (1) any government agency with relevant authority and jurisdiction condemns the site due to hazards, (2) essential services to the site can no longer be maintained (e.g. South Coast Highway 101), (3) development is impermissibly encroaching on public trust lands, and (4) safe lateral access cannot be provided as described above. Aside from the existing revetment/public access improvements, the first-floor patio attached to the vacant building is the most seaward point of the development and thus would likely be the first structure to be removed/relocated if one of four conditions for removal is met. Conditioning the removal of threatened structures is not unprecedented in the Commission's actions (see CDPs #P-77-0579-A3 and 1; A-3-SNC-98-114/Monterey Bay Shores Resort).

With the development conditioned to be removed under the four different scenarios, the Commission can be ensured that safe lateral public access will continue across the seaward side of the site while also reducing the hazards risk to the restaurant without adding additional shoreline protection.

Although, the seaward additions could be considered an increase in the degree of non-conformity, the additions to the restaurant will occur within the existing building

footprint and they are relatively minor. The addition will align the vacant restaurant with the existing Pacific Coast Grill to create one visitor-serving high priority use. Public access is already provided seaward of the restaurant and the conditions of this permit requires that public access be preserved.

Therefore, to ensure the proposed new development minimizes risks to life and property without adding additional shoreline protection, **Special Condition #6** requires the applicant to acknowledge the hazards present onsite, assume the risk of such hazards, and waive the right to construct further shoreline armoring for the development authorized through this permit. Furthermore, **Special Condition #6** requires the applicant in the future to remove or relocate development authorized by this CDP to accommodate the inland migration of the eight-foot wide public accessway and public accessway signage. Other circumstances such as loss of access to the site via South Coast Highway 101, encroachments into public trust lands, and a government agency order condemning the property due to hazards will also require future removal or relocation of the development. This condition takes into consideration the potential for future sand replenishment in this area which could allow the existing alignment of the public accessway and the patio to stay the same since a broader beach would move the hazards away from the development and thus prevent any of the four removal conditions from being satisfied.

Special Condition #5 requires the applicant to submit annual monitoring reports for both the revetment and eight-foot wide public accessway May 1 of every year for the life of the structure. Special Condition #8 of CDP #6-02-008 and Special Condition #2 of CDP #6-02-119 are still in effect and requires compliance through the submittal of monitoring reports, but these conditions may be satisfied concurrently with Special Condition #5 of this permit. The monitoring reports will serve as another way to inform the Commission if the public accessway is vulnerable to the conditions that may require removal of development according to Special Condition 6(e).

To ensure that future property owners are properly informed regarding the terms and conditions of this approval, **Special Condition #7** requires a deed restriction to be recorded against the properties involved in the application.

As conditioned, the proposed development will minimize risks to life and property in an area of high flood hazard pursuant to Sections 30235 and 30253 of the Coastal Act.

C. PUBLIC ACCESS & RECREATION/PARKING

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

6-18-0201 (PS2 Pacific, LLC)

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby . . .

Section 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. . . .

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by . . . (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation . . .

Section 30.54.030 of the Encinitas certified Implementation Plan:

The number of off-street parking spaces required for automobiles shall be less than that set forth in the following table:

[. . .]

| | |
|-------------|--|
| Restaurants | 1 space for each 100 sq. ft. area. . . . |
|-------------|--|

**Parking requirements for outdoor dining and/or sidewalk dining areas shall include such areas in the gross floor area requiring parking spaces.*

Riprap Public Accessway

The subject site currently consists of two of three contiguous oceanfront properties located west of Highway 101 that are all improved with restaurants. The surrounding area that encompasses the project site is known locally as “restaurant row” which contains several restaurants adjacent to South Coast Highway 101 between Cardiff State Beach and San Elijo Lagoon. Furthermore, Cardiff State Beach, home to Cardiff Reef, is one of the most popular surfing and water recreation spots in San Diego County and is located seaward of the project site. Public parking is available at the North Cardiff State Park parking lot which provides approximately 105 parking spaces. Adequate vertical access to the beach exists via the North Cardiff State Beach parking lot, but there is concern that the existing lateral access seaward of the restaurant could be lost in the near future. Rising sea levels will cause landward migration of beaches due to the combined effects inundation and loss of sediment due to erosion. As the beach erodes away, lateral access across the sandy beach will disappear leaving the seaward eight-foot wide public access path as the only dry accessway along this section of the beach.

An eight-foot-wide public access pathway is located seaward of both restaurants on the project site as required by prior permit actions (see CDPs #F2857, #6-83-165). Public access signage is also required near the beginning and ends of the path. As the landowner and holder of the permits, the applicant is responsible for maintaining the section of the path that runs north/south seaward of the project site. The pathway runs along the top of the existing revetment and has been subject to several permit actions to rearrange, raise, and modify the path so that it is consistent with the Commission’s original intent of allowing beachgoers to enjoy dry access along this section of the beach. Public access signage is also required to be installed at the north and south ends of the restaurants near the public access path (see CDPs #6-02-008/A1, #6-02-119). Conspicuously posted signage for public access carries out the goal of providing maximum access seaward of the project site. The accessway also serves as a lower-cost visitor-serving facility for visitors to the area, which is predominately zoned as visitor-serving. Access on the path will likely increase in the future as rising sea level takes away dry access on the beach itself.

No work is currently proposed to the public accessway or proposed to encroach into the accessway. The applicant has submitted a staging plan that shows all materials will be stored in the existing parking lot or inside the vacant restaurant. No construction materials or vehicles will be placed on the beach or accessway. However, the revetment which houses the public accessway currently experiences minor overtopping during a 100-year storm under current coastal conditions. Sea level rise will intensify overtopping events, causing them to be of a greater depth and velocity that will create dangerous conditions for people attempting to access the path.

According to the Commission’s 2015 Sea Level Rise Policy Guidance, public access is one of the coastal resources most at risk from accelerating sea level rise. Sea level rise

could lead to a loss of public access and recreational opportunities due to permanent inundation, episodic flooding, or erosion of beaches, recreational areas, or trails. This is an area where very little sandy beach currently exists, and lateral public access is available only at the lowest tides. As discussed above in Section B, Geologic Hazards/Flooding & Inundation, although the Commission has approved permits for beach nourishment on the beach in front of the project site, it is uncertain whether enough sand would be placed to move the identified coastal hazards away from the public accessway. Another sea level rise adaptation strategy is to move the public accessway away from the coastal hazard by moving it inland; however, the accessway is backed by restaurants on the project site that prevent any inland migration of the path. Thus, the only way to ensure lateral access continues to be provided along the shoreline seaward of the project site in the future as sea level rise continues is to remove or relocate development adjacent to the public accessway, such as the vacant restaurant's first-floor patio.

Special Condition #6 requires the applicant to obtain a CDP to remove or relocate any development authorized by this permit when safe lateral public access along the revetment is temporarily eliminated by coastal hazards at least one time per a day over three consecutive days three or more during any rolling 12-month period. Elimination of safe lateral access may be determined using the Coastal Data Information Program/Scripps Institution of Oceanography (CDIP/SIO) Potential Flooding Index for Cardiff, or a comparable flood threshold that is developed by the applicant and submitted to the Executive Director for review and approval. CDIP currently sends alerts to all the restaurant owners along Restaurant Row when it anticipates overtopping of the revetment, based on its 3-day flooding forecast, immediately adjacent to South Coast Highway 101 and at the parking lot near Chart House. Overtopping of the revetment immediately adjacent to Highway 101 is anticipated when tides plus waves effects exceed the empirical moderate flood threshold (red line) on the Flooding Index for Cardiff. Overtopping of the revetment surrounding the Chart House parking lot is anticipated when the empirical mild flood threshold (orange line) is exceeded on the Flooding Index for Cardiff ([see Exhibit #7](#)). Exceedance of the empirical mild flood threshold provides a good trigger to determine unsafe conditions along the public access path, since the revetment, upon which the public access path is sited, would be completely overtopped. Thus, exceedance of the empirical mild flood threshold can be used as the trigger event to determine when safe lateral access along the revetment is temporarily eliminated by coastal hazards.

An annual monitoring report for the revetment/public access path provides another way for the Commission to be informed if the public accessway is vulnerable to the conditions that may require removal of development. The report is required to contain an evaluation of the condition of the access path, including whether it maintains its required eight-foot width, level surface, and primarily dry conditions for maximum access.

Alternatively, the seaward portions of the restaurant could be removed now rather than later to facilitate the inland migration of the public access path. The first-floor concrete patio immediately abuts the inland side of the existing public access path and could easily be relocated to accommodate the inland migration of the path. The applicant could still

provide an outdoor dining area by relocating it within the building footprint. This is a favorable approach because it would ensure adequate space is provided both now and in the future. However, the applicant is unwilling to remove/relocate any portion of the structure at this time. The applicant asserts that even with the extensive remodel proposed, it is possible that no portions of the public accessway will be threatened within the remaining economic life of the structure.

Due to several uncertain variables when projecting regional sea level such as the influence of thermal expansion on local sea levels and future vertical land motion, it can be extremely difficult, if not impossible, to determine exactly at what amount of sea level rise that the accessway would be threatened. Using scenario-based analysis, discussed in greater detail in Section. B above, to address the uncertainty in sea level rise projections, the analysis shows that the accessway will be inundated at the 75 centimeters of sea level rise and 100-year storm scenario; however, this analysis forgoes other factors that will contribute to the hazards, such as wave run-up, that will create unsafe conditions that will likely be present on the accessway well before it is inundated under the conditions of the above scenario. **Special Condition #6** provides a compromise that allows the applicant to move forward with the proposed project at this time, but requires the applicant to agree that if the public access path seaward of the project site, or long-term use of the access path are ever threatened, portions of the restaurant adjacent to the public accessway will be removed or relocated to accommodate the inland relocation of the public accessway.

Furthermore, Special Condition #14 of CDP #6-02-119, which is still in effect, requires the applicant to apply for an amendment or coastal development permit to move or realign the public access path to an approved inland location, if a modification to the revetment interferes with the alignment of the accessway. The only difference between the triggering events for seeking an amendment/CDP to consider a new inland alignment for the accessway for Special Condition #14 of CDP #6-02-119 and **Special Condition #6** of this permit is that the first one occurs when modification to the revetment interferes with current alignment of the accessway, and the latter occurs when there is temporary elimination of safe lateral access. Therefore, to be sufficiently precautionary in the face of rising sea level and to make space for the future inland migration of the public accessway, **Special Condition #6** requires the applicant in the future to remove or relocate development authorized by this CDP to accommodate the inland migration of the eight-foot wide public accessway and public access signage.

Special Condition #5 requires the applicant to submit annual monitoring reports that identify any necessary maintenance, repair, changes or modifications to the public accessway. If any maintenance to the path is necessary, the applicant must follow up with a CDP application within 90 days of submitting the monitoring report that identifies the necessary repairs.

Parking

Although the subject site is within the original permit jurisdiction of the Commission, the City of Encinitas' certified LCP contains policies regarding parking and public access that the Commission has found consistent with the Coastal Act for this area, and thus,

contains useful guidance for the review of the subject project. The Encinitas certified LCP requires one parking space for every 100 square feet of gross floor area for restaurants. Outdoor eating areas are included in the gross floor area calculation. Any fractional parking spaces must be rounded up to the next higher whole number.

Restaurant Row is a popular destination for visitors and locals, and the popularity strains the existing parking reservoirs in this area. Many of the restaurants along the row are relatively old and were constructed at a time when off-street parking was not required to be provided in conjunction with new development or was approved with less restrictive parking requirements than utilized today. If sufficient parking not available onsite for patrons of the restaurant, patrons would likely use nearby public parking spaces on the North Cardiff State Beach parking lot or the public parking along the shoulder of South Coast Highway 101. The usurpation of public parking would adversely affect public access to the beach, since these are the only public parking reservoirs within close proximity to the beach at this location. Many of these restaurants have established valet programs to efficiently use their existing parking lots to meet current parking demands or have off-site parking agreements with the owners of nearby parking lots.

To provide the necessary parking for the restaurants on the project site, valet programs were implemented and approved for both restaurants by the Commission in two separate permits (see CDPs #6-02-119, #6-02-008). The project site currently provides 64 on-site valet parking spaces in the Pacific Coast Grill parking lot and 121 on-site valet parking spaces on the former Beach House restaurant parking lot.

The valet parking plan approved in CDP #6-02-008 required a total of 65 valet parking spaces. A later amendment to CDP #6-02-008 required an additional ten deed-restricted, off-site parking spaces to accommodate the expansion of the restaurant approved in CDP #6-02-008-A1 (total of 75 required). Special Condition #9 of CDP #6-02-008, which is still in effect, required a commensurate reduction in dining area if at some point in the future the number of parking spaces was reduced (i.e. 100 square feet of dining space for each parking space lost). There are currently only 64 spaces on the Pacific Coast Grill site, which the applicant has indicated is because when the project was going through local review process, one of the proposed on-site valet parking spaces was eliminated. The City found that its location, partially in the drive aisle, posed a safety issue to the valet attendants driving the cars. Thus, the site is out of compliance with the existing permit requirements.

However, the valet plan approved in CDP #6-02-119 for Beach House restaurant required the provision of 96 valet parking spaces, and 121 valet parking spaces were provided. Thus, between the two restaurants lots, a total of 171 parking spaces were required under previous permits, and there are currently 185 on-site valet parking spaces ([see Exhibit #6](#)).

The project would not change the total number of spaces onsite, but would modify the vehicular ingress/egress and circulation of the lot to provide valet parking for the lot as a whole ([see Exhibit #5](#)). Valet service will be provided until the restaurant closes (9 p.m.

Sunday-Thursday; 10 p.m. Friday & Saturday) to ensure all restaurant parking is accommodated onsite during its hours of operation.

The proposed new restaurant will be 18,783 square feet, including the outdoor seating area. At the required City ratio, a restaurant of this size would require 188 parking spaces; however, the City's LCP (used here as guidance) does not require that the entire restaurant be brought into conformance when additional area is proposed. Instead, only the new square footage must conform to current City parking standards. The 641 square feet of additions to the restaurant requires the applicant to provide an additional six parking spaces beyond the 171 previously required, for a total of 177 spaces. However, it is worth noting that upon review of the past permits for the site, Commission staff identified an inconsistency in one of the previous permits for the site regarding the size of the outdoor dining deck approved in 1974 for the now Pacific Coast Grill restaurant (F1183/Wood). The staff report identifies the deck as 600 square feet, but the plans show an 800 square foot deck. Thus, in calculating parking requirements, an additional two parking spaces should have been required. Thus, at this time, the number of parking spaces required for the site should be 179. As the 185 onsite valet spaces can accommodate the 179 spaces, no offsite lots will be needed to provide the required parking for the proposed restaurant. Thus, the proposed project will provide adequate onsite parking to avoid any "spill-over" impacts onto nearby public parking reservoirs.

In the Commission's action on CDP #6-02-008-A1, the applicant was required to submit and implement a Transportation/Parking Demand Management Program to promote use of transit, minimize employee parking demand, and prevent restaurant employees from usurping public parking spaces. The program was intended to encourage and reward employees for biking or carpooling to work, provide incentives for using public transportation, provide emergency rides for employees that normally use alternative transportation, and mandate that a survey of employees will be submitted annually to the Executive Director in order to gauge the effectiveness of the program. The 2018 survey completed by the applicant shows that of the eighty-four employees that filled out the survey, four-nine of them either carpool, take public transit, or use non-vehicular means to get to work. Of the eighty-four employees, twelve were reimbursed for public transport. The results of the survey shows that more than half of the employees that took the survey are using alternative means to get to work that will conserve onsite parking for patrons of the restaurant.

By combining the Pacific Coast Grill with the vacant restaurant, the applicant will extend its current restaurant operations at the Pacific Coast Grill into the vacant restaurant. Such an increase will likely require more staff that will also need to find parking at the site. If employees cannot park onsite, they may turn to near public parking reservoirs, usurping public parking spaces for beachgoers. Therefore, **Special Condition #4** requires that the applicant submit and implement a Transportation/Parking Demand Management Program to promote use of transit, minimize worker parking demand, and prevent restaurant workers from usurping public parking spaces. Special Condition #15 of CDP #6-02-008-A1 is still in effect and requires compliance through the submittal of annual employee parking surveys, but this condition may be satisfied concurrently with Special Condition

#4 of this permit. **Special Condition #1** requires the applicant to identify which valet parking spots have been set aside for worker carpools.

The Public Trust

In addition to the Coastal Act policies that support public access and equal opportunities for recreation, the Commission has the responsibility protect the public trust and public trust uses.¹ Coastal Act regulations² define public trust lands as “all lands subject” to the common law public trust and associated with trust purposes, including recreation. In the common law, the doctrine traditionally protects in-water uses such as fishing and navigation, but has been extended to protect the environment (*Marks v. Whitney* (1971) 6 Cal.3d 251, 259-260), and associated resources that affect trust lands, such as non-navigable tributaries supplying water to a lake (*Nat’l Audubon Soc. v. Super. Ct.* (1983) 33 Cal. 419, 436-437). In some jurisdictions, the doctrine explicitly protects “dry sand” recreation adjacent to public trust lands (*Matthews v. Bay Head Improvement Assn.* (1984) 95 N.J. 306, 331-332), on the rationale that “reasonable enjoyment” of the shore and sea cannot be realized without some use of the dry sand area (*id.* at p. 325).³ California recognizes access as a component of public trust resources. A July 2017 report by the Stanford Center for Ocean Solutions explains that agencies “may not undertake or authorize uses of uplands without appropriate safeguards for nearby public trust resources and uses.”⁴ The State Lands Commission, which administers leases on public trust lands, analyzes the entire area of public trust impacts, including impacts on upland recreation.⁵ Thus, use of dry land adjacent to the public trust may not interfere with recreation and other public trust uses.

The concern is complicated by the effects of sea level rise. As sea levels rise, and beaches and bluffs migrate inland, maintaining development adjacent to the shoreline will in many cases cause the narrowing and eventual loss of beaches, dunes and other shoreline habitats, as well as the loss of offshore recreational areas. This narrowing, often referred to as the “coastal squeeze,” can occur when shoreline protection or other

¹ The State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds and manages these lands for the benefit of all people of the State for statewide purposes consistent with the common law Public Trust Doctrine (“public trust”). In coastal areas, the landward location and extent of the State’s sovereign fee ownership of these public trust lands are generally defined by reference to the ordinary high water mark (Civil Code, § 670), as measured by the mean high tide line (*Borax Consol. v. City of Los Angeles* (1935) 296 U.S. 10); these boundaries remain ambulatory, except where there has been fill or artificial accretion.

² Cal. Code of Regs., title 14, § 13577(f).

³ In a 2005, the same court affirmed *Matthews* and described access over uplands as “integral to the public trust doctrine.” (*Raleigh Ave. Beach Assn. v. Atlantis Beach Club, Inc.* (2005) 185 N.J. 40, 53.)

⁴ Center for Ocean Solutions, Stanford Woods Institute for the Environment, *The Public Trust Doctrine: A Guiding Principle for Governing California’s Coast Under Climate Change* (2017), p. 5.

⁵ See e.g., Section 3.2.4, Public Trust Impact Analysis, Broad Beach Restoration Project Revised Analysis of Impacts to Public Trust Resources and Values, July 2014, including discussion of long-term impacts on recreational use at pp. 3.2-23 to 26. Available at

http://www.slc.ca.gov/Info/Reports/Broad_Beach/3.2_Recreation.pdf.

fixed development prevents the landward migration of the beach that would have otherwise occurred.

The mean high tide line is an ambulatory line where the public trust begins.⁶ Already it is hard to walk the access path during high tide, and eventually, sea level rise will likely engulf the narrow beach. A protective device would hasten this process because it would fix the back of the beach and prevent the accumulation of sand. Structures that fix the back of the beach stop the landward migration of the beach profile while the seaward edge continues to erode, reducing the amount of dry sandy beach available to the public. The addition of new rock to the existing riprap revetment could take away useable beach area from the public.

Hard armoring can also result in nuisance conditions for neighbors who suffer increased flooding or erosion as a result of nearby armoring, as well as reduced public access along the shoreline. Other detrimental impacts may include negative visual impacts, recreation impacts (e.g., surfing limitations, reduced beach access), and interference with ecosystem service functions. The effectiveness of hard armoring to protect development will also be reduced as sea level rises and storm intensity and frequencies increase. Relatedly, shoreline armoring costs will increase over time as coastal hazards and storms cause elevated levels of damage and increasing need for repair and maintenance.

To prevent this conflict and maximize access to public trust lands, Special Condition #6(c) requires that the applicant waive any rights that may exist under Public Resources Code Section 30235 or under the certified Encinitas LCP to construct new shoreline protection to protect the proposed development.

As conditioned, the proposed development will be consistent with the public access and recreation policies of the Coastal Act.

D. COMMUNITY CHARACTER/VISUAL QUALITY

Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. . . .

Land Use Policy 6.5 of the Encinitas certified Land Use Plan states, in part:

⁶ The mean high tide line is the intersection of the shoreline with the elevation of the average of all high tides calculated over an 18.6-year tidal epoch. It is ambulatory due to the ordinary forces of nature, in addition to the tidal cycle and sea level rise.

The building height of both residential and non-residential structures shall be compatible with surrounding development, given topographic and other considerations, and shall protect public views of regional or statewide significance. . . .

Section 30.54.030 of the Encinitas certified Implementation Plan:

The design and exterior appearance of buildings and other structures visible from public vantage points shall be compatible with the scale and character of the surrounding development . . .

The proposed development will be sited adjacent to the public beach on the west side of South Coast Highway 101 in the Cardiff community of Encinitas. This section of Highway 101 is also designated in the City's certified LCP as a "Scenic Highway" with broad views of the ocean to the west and San Elijo Lagoon to the east. The restaurant is also visible from San Elijo Avenue which is designated in the City's certified LCP as a scenic visual corridor. Therefore, any new development along Highway 101 has the potential to adversely affect public views of coastal resources.

The proposed development will not result in any significant adverse visual impacts over what currently exists on the site. Currently, the Pacific Coast Grill and vacant restaurant obstruct views of the ocean from pedestrians/drivers traveling along the Highway 101 corridor. The only part of the proposed additions that will be visible from Highway 101/ San Elijo Avenue is the second-floor addition; however, the addition is within the existing footprint of the building and only results in a minor obstruction of the ocean view. This impact is nominal as the views on either side of the development would be completely unobstructed by any structures. The other proposed additions are either on the seaward side of the existing restaurants, and thus are not visible from Highway 101 San Elijo Avenue, or are sited directly in front of the existing restaurant which already obstructs views of the ocean. Pedestrians on the access path or on the beach have a clear view of the ocean.

Most of the hardscape improvements are located at or near grade and will not significantly impact views of the ocean. Thus, the proposed project will not result in significant adverse impacts on public views of the ocean.

This section of Highway 101, referred to locally as "restaurant row," is lined with restaurants. The proposed project will reuse an existing commercial restaurant space (the vacant restaurant that was previously Beach House) and expand an existing restaurant (Pacific Coast Grill) to utilize both restaurants as one space. The proposed lot consolidation will essentially allow two adjacent properties to be combined as one property. Upon approval of this permit, the site will contain the same visitor-serving use it currently does except instead of two separate restaurants there will be one large restaurant. The combined restaurant space is consistent with the character of restaurant row. Thus, the proposed project will not result in adverse impacts to community character.

Therefore, the proposed development is consistent with Section 30251 of the Coastal Act.

E. BIOLOGICAL RESOURCES

Section 30231 of the Coastal Act states, in part:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, . . .

Section 30.34.040 of the Encinitas certified Implementation Plan:

Floodplain. Within the 100-year floodplain, permanent structures, roads and other public improvement consistent with the Land Use Element will only be allowed if the applicant can demonstrate the following:

[. . .]

e. There will be no significant adverse water quality impacts to downstream wetlands, lagoons and other environmental sensitive habitat areas.

Resource Management Policy 2.1 of the Encinitas certified Land Use Plan states, in part:

In that the ocean water quality conditions are of utmost importance, the City shall aggressively pursue the elimination of all forms of potential unacceptable pollution that threatens marine and human health. . . .

Resource Management Policy 2.3 of the Encinitas certified Land Use Plan states, in part:

To minimize harmful pollutants from entering the ocean environment from lagoons, streams, storm drains and other waterways containing potential contaminants, the City shall mandate the reduction or the elimination of contaminants entering all such waterways . . .

In approving the new development, the Commission typically requires the incorporation of best management practices (BMPs) to assure protection of coastal waters. The project site immediately abuts Cardiff State Beach and contains a large parking lot. A large portion of the remodel will occur to the seaward side of the vacant restaurant and without proper BMPs in place, debris from the demolition work and pollutants from the paint job could migrate into the ocean.

Also, depending on how the parking lot drains, runoff from the lot could wash pollutants across the beach and into coastal waters. In urban areas, runoff can contain toxic pollutants that can adversely impact water quality. The existing riprap revetment

inadvertently provides a filter for some of the runoff that may run west towards the ocean.

Although the project proposal includes several hardscape improvements, the project will not increase the amount of impervious surface on the site. All of the improvements will either replace existing hardscape improvements or be sited on top of existing impervious surfaces. However, runoff from parking lots can be a major contributor of non-point source pollution in stormwater which ultimately is disposed into coastal waters. Once merged, the parking lot will account for over thirty percent of the total site area.

Special Condition #2 requires the applicant to submit a Construction Pollution Prevention Plan, prepared by a licensed engineer, that incorporates BMPs designed to address contaminants associated with construction activity. **Special Condition #3** requires the applicant to submit a Post-Development Runoff Plan implementing BMPs to reduce runoff from the various impervious surfaces.

The Commission's water quality staff have reviewed the project and determined that, as conditioned, the proposed project will not result in adverse water quality impacts, consistent with the resource protection policies of the Coastal Act and the City's LCP.

F. LOCAL COASTAL PLANNING

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The property is located within an area subject to the Commission's original jurisdiction meaning that the standard of review is the provisions of Chapter 3 of the Coastal Act; however, the proposed development is also consistent with the City's certified LCP. The subject site is designed as visitor-serving commercial in the certified City of Encinitas Land Use Plan and the proposed development is consistent with that designation.

Additionally, the certified IP provides parking standards for restaurants and limitations on development in floodplain areas. The certified LUP contains circulation policies that provide for the protection and enhancement of access opportunities along the shoreline in cooperation with the State. As conditioned, the proposed project is consistent with the City's parking standards and limitations on development in floodplain areas. Thus, the proposed development is consistent with the City's certified LUP/IP and approval of the proposed development would not prejudice the ability of the City to continue to implement its certified LCP.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as

conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of Encinitas Planning Commission determined that the proposed project was exempt from environmental review pursuant to CEQA Guidelines Sections 15301, 15301(a), 15301(e)(2), 15303 and Section 15061(b)(3).

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing continued lateral public access and future removal of development, will minimize all adverse environmental impacts. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environment effects which approval of the approval of the proposed project, as conditioned, would have on the environmental within the meaning on CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

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APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- City of Encinitas certified LCP
- City of Encinitas Planning Commission 2018-15
- Beach House Restaurant Revetment Inspection/Monitoring 2530 S. Coast Highway 101 prepared by GeoSoils Inc. (April 2018)
- Revetment Inspection/Monitoring 2526 S. Coast Highway 101 prepared by GeoSoils Inc. (April 2018)
- Beach House Restaurant Coastal Hazard Discussion 2530 S. Coast Highway 101 prepared by GeoSoils Inc. (July 2018)
- Addendum to July 19, 2018, Beach House Restaurant Coastal Hazard Discussion 2530 S. Coastal Highway 101 (August 2018)
- CDP #F1183
- CDP #F285
- CDP #F5483
- CDP #6-83-165
- CDP #6-84-437
- CDP #6-97-144-G
- CDP # 6-02-008
- CDP # 6-02-008-A1